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[Report No. 107-]

To amend title 49, United States Code, to ensure that air carriers meet their obligations under the Airline Customer Service Agreement, and provide improved passenger service in order to meet public convenience and necessity.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2001

Mr. MCCAIN (for himself, Mr. HOLLINGS, and Mrs. HUTCHISON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

MARCH —, 2001

Reported by Mr. MCCAIN, with an amendment in the nature of a substitute

[Strike all after the enacting clause and insert the part printed in italic]

A BILL

To amend title 49, United States Code, to ensure that air carriers meet their obligations under the Airline Customer Service Agreement, and provide improved passenger service in order to meet public convenience and necessity.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

[Original bill text struck. Not printed here.]

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Airline Customer Serv-*
5 *ice Improvement Act”.*

6 **SEC. 2. FINDINGS.**

7 *The Congress finds the following:*

8 *(1) Airline traffic in the United States is in-*
9 *creasing. The number of passengers carried by United*
10 *States air carriers has nearly tripled since 1978, to*
11 *over 660 million annually. The number is expected to*
12 *grow to more than 1 billion by 2010. The number of*
13 *domestic flights has been steadily increasing as well.*

14 *(2) The Inspector General of the Department of*
15 *Transportation has found that this growth in traffic*
16 *has been accompanied by increases in delays, can-*
17 *cellations, and customer dissatisfaction with air car-*
18 *rier service.*

19 *(A) The Federal Aviation Administration*
20 *has reported that, between 1995 and 2000, delays*
21 *increased 90 percent and cancellations increased*
22 *104 percent. In 2000, over 1 in 4 flights were de-*
23 *layed, canceled, or diverted, affecting approxi-*
24 *mately 163 million passengers.*

1 (B) At the 30 largest United States air-
2 ports, the number of flights with taxi-out times
3 of 1 hour or more increased 165 percent between
4 1995 and 2000. The number of flights with taxi-
5 out times of 4 hours or more increased 341 per-
6 cent during the same period.

7 (C) Certain flights, particularly those sched-
8 uled during peak periods at the nation's busiest
9 airports, are subject to chronic delays. In Decem-
10 ber, 2000, 626 regularly scheduled flights arrived
11 late 70 percent of the time or more, as reported
12 by the Department of Transportation.

13 (D) The number of consumer complaints
14 filed with the Department of Transportation
15 about airline travel has nearly quadrupled since
16 1995. According to the Department of Transpor-
17 tation's Inspector General, air carriers receive
18 between 100 and 400 complaints for every com-
19 plaint filed with the Department of Transpor-
20 tation.

21 (3) During the same time period in which the
22 number of complaints about airline travel has in-
23 creased, the resources devoted to the Department of
24 Transportation's handling of such complaints have
25 declined sharply. The Department of Transportation's

1 *Inspector General has reported that the staffing of the*
2 *Department of Transportation office responsible for*
3 *handling airline customer service complaints declined*
4 *from 40 in 1985 to just 17 in 2000.*

5 *(4) In June, 1999, the Air Transport Association*
6 *and its member airlines agreed to an Airline Cus-*
7 *tomers Service Commitment designed to address*
8 *mounting consumer dissatisfaction and improve cus-*
9 *tomers service in the industry.*

10 *(5) The Inspector General of the Department of*
11 *Transportation has found that the airlines' voluntary*
12 *commitment to better service, set forth in the Airline*
13 *Customer Service Commitment, has resulted in posi-*
14 *tive changes in how air travelers are treated.*

15 *(6) While the Inspector General's final report*
16 *noted that the voluntary effort has produced benefits*
17 *faster than would a legislative or regulatory mandate,*
18 *which could have taken years to implement, the In-*
19 *spector General has recommended additional changes*
20 *that require legislation and regulations.*

21 *(7) The Airline Customer Service Commitment*
22 *has prompted the airlines to address consumer con-*
23 *cerns in many areas, ranging from providing infor-*
24 *mation more accurately on delays to explaining that*
25 *lower fares may be available through the Internet.*

1 (8) *Air carriers need to do more, in the areas*
2 *under their control, to reduce over-scheduling, the*
3 *number of chronically late or chronically canceled*
4 *flights, and the amount of checked baggage that does*
5 *not show up with the passenger upon arrival.*

6 (9) *The airlines were cooperative with, and re-*
7 *sponsive to, many of the suggestions the Inspector*
8 *General made in the interim report last year.*

9 (10) *The Inspector General has determined that,*
10 *while there has been significant progress in improving*
11 *airline customer service, certain areas covered by the*
12 *Airline Customer Service Commitment are in need of*
13 *significant clarification and improvement and, where*
14 *appropriate, enforcement action.*

15 **SEC. 3. DEPARTMENT OF TRANSPORTATION TO DEVOTE**
16 **GREATER RESOURCES TO AIRLINE PAS-**
17 **SENGER CONSUMER PROTECTION.**

18 (a) *IN GENERAL.*—*The Secretary of Transportation*
19 *shall increase the resources of the Department of Transpor-*
20 *tation allocated to providing—*

21 (1) *airline passenger consumer protection and*
22 *related services; and*

23 (2) *oversight and enforcement of laws and regu-*
24 *lations within the jurisdiction of the Department that*
25 *provide protection for air travelers.*

1 (b) *REPORT.*—Within 60 days after the date of enact-
2 ment of this Act, the Secretary shall report to the Senate
3 Committee on Commerce, Science, and Transportation and
4 the House Committee on Transportation and Infrastructure
5 measures taken by the Secretary to carry out subsection (a),
6 together with a request for additional funds or measures,
7 if necessary, to carry out that subsection fully.

8 **SEC. 4. AIRLINE CUSTOMER SERVICE COMMITMENT.**

9 (a) *IN GENERAL.*—Chapter 417 of title 49, United
10 States Code, is amended by adding at the end the following:

11 “SUBCHAPTER IV. AIRLINE CUSTOMER SERVICE

12 **“§ 41781. Airline customer service requirements**

13 “(a) *IN GENERAL.*—Within 60 days after the date of
14 enactment of the Airline Customer Service Improvement
15 Act, each large air carrier shall incorporate in its contract
16 of carriage—

17 “(1) the provisions of the Airline Customer Serv-
18 ice Commitment executed by the Air Transport Asso-
19 ciation and 14 of its member airlines on June 17,
20 1999; and

21 “(2) its customer service plan developed in ac-
22 cordance with that Commitment to the extent that the
23 plan is more specific or broader than the Commit-
24 ment.

1 “(b) *ADDITIONAL OBLIGATIONS.—Within 60 days*
2 *after the date of enactment of the Airline Customer Service*
3 *Improvement Act, each large air carrier shall institute the*
4 *following practices:*

5 “(1) *Provide to customers at an airport and on*
6 *board an aircraft, in a timely, reasonable, and truth-*
7 *ful manner, the best information available to the air*
8 *carrier regarding a delay, cancellation, or diversion*
9 *affecting the customers’ flight, including—*

10 “(A) *the cause of any such delay, cancella-*
11 *tion, or diversion; and*

12 “(B) *for a delayed flight, the air carrier’s*
13 *best estimate of the departure time.*

14 “(2) *Offer the lowest fare available for which a*
15 *customer is eligible at the air carrier’s ticket offices*
16 *and airport ticket service counters for the date, flight,*
17 *and class of service requested.*

18 “(3) *Notify customers that lower fares may be*
19 *available through other distribution systems, includ-*
20 *ing Internet websites.*

21 “(4) *Provide, no later than the 5th day of each*
22 *month, the air carrier’s on-time performance rate for*
23 *each scheduled flight for the most recently ended*
24 *month for which data is available through its Internet*
25 *website.*

1 “(5) *Disclose, without being requested, the on-*
2 *time performance and cancellation rate for a chron-*
3 *ically delayed or chronically canceled flight whenever*
4 *a customer makes a reservation or purchases a ticket*
5 *on such a flight.*

6 “(6) *Establish a plan with respect to passengers*
7 *who must unexpectedly remain overnight during a*
8 *trip due to flight delays, cancellations, or diversions.*

9 “(7) *Tell all passengers on a flight what the air*
10 *carrier is required to pay passengers involuntarily*
11 *denied boarding before making offers to passengers to*
12 *induce them to relinquish seats voluntarily.*

13 “(c) *COMPLIANCE ASSURANCE.—*

14 “(1) *AIR CARRIER FUNCTIONS.—Each large air*
15 *carrier also shall—*

16 “(A) *establish a customer service quality as-*
17 *surance and performance measurement system*
18 *within 90 days after the date of enactment of the*
19 *Airline Customer Service Improvement Act;*

20 “(B) *establish an internal audit process to*
21 *measure compliance with the commitments and*
22 *obligations under subsections (a) and (b) within*
23 *90 days after the date of enactment of the Airline*
24 *Customer Service Improvement Act; and*

1 “(C) cooperate fully with any Department
2 of Transportation audit of its customer service
3 quality assurance system or review of its inter-
4 nal audit.

5 “(2) DOT FUNCTIONS.—The Secretary of Trans-
6 portation shall—

7 “(A) monitor compliance by large air car-
8 riers with the requirements of this section and
9 take such action under subpart IV of this title as
10 may be necessary to enforce compliance with this
11 section under subpart IV of this title;

12 “(B) monitor, in particular, and enforce air
13 carrier performance under paragraphs (1), (2),
14 (3), (5) and (7) of subsection (b), focusing on
15 practices and patterns of conduct rather than
16 specific incidents of failure to follow the air car-
17 rier’s established practices;

18 “(C) monitor air carrier customer service
19 quality assurance and performance measurement
20 systems to ensure that air carriers are meeting
21 fully their airline passenger service commit-
22 ments; and

23 “(D) review the internal audits conducted
24 by air carriers of their air carrier customer serv-

1 *ice quality assurance and performance measure-*
2 *ment systems.*

3 “(d) *DEFINITIONS.—In this section—*

4 “(1) *LARGE AIR CARRIER.—The term ‘large air*
5 *carrier’ means an air carrier holding a certificate*
6 *issued under section 41102 that conducts scheduled*
7 *passenger air transportation and—*

8 “(A) *operates aircraft designed to have a*
9 *maximum passenger capacity of more than 60*
10 *seats or a maximum payload capacity of more*
11 *than 18,000 pounds; or*

12 “(B) *conducts operations where one or both*
13 *terminals of a flight stage are outside the 50*
14 *states of the United States, the District of Co-*
15 *lumbia, the Commonwealth of Puerto Rico and*
16 *the U.S. Virgin Islands.*

17 “(2) *CHRONICALLY DELAYED FLIGHT.—The term*
18 *‘chronically delayed flight’ means a regularly sched-*
19 *uled flight that has failed to arrive on time (as de-*
20 *finied in section 234.2 of title 14, Code of Federal Reg-*
21 *ulations) at least 40 percent of the time during the*
22 *most recent 3-month period for which data are avail-*
23 *able.*

24 “(3) *CHRONICALLY CANCELED FLIGHT.—The*
25 *term ‘chronically canceled flight’ means a regularly*

1 *scheduled flight at least 30 percent of the departures*
2 *of which have been canceled during the most recent 3-*
3 *month period for which data are available.”.*

4 **(b) ENFORCEMENT.**—*Section 46301(a)(7) of title 49,*
5 *United States Code, is amended by striking “40112 or*
6 *41727” and inserting “40112, 41727, or 41781”.*

7 **(c) CONFORMING AMENDMENT.**—*The chapter analysis*
8 *for chapter 417 of title 49, United States Code, is amended*
9 *by adding at the end the following:*

 “SUBCHAPTER IV. AIRLINE CUSTOMER SERVICE
“41781. Airline customer service requirements”.

10 **SEC. 5. OTHER SERVICE-ENHANCING IMPROVEMENTS.**

11 **(a) IN GENERAL.**—*Within 90 days after the date of*
12 *enactment of this Act, each large air carrier (as defined*
13 *in section 41781(d)(1)) shall—*

14 (1) *establish realistic targets for reducing chron-*
15 *ically delayed and chronically canceled flights;*

16 (2) *establish a system passengers may use before*
17 *departing for the airport to determine whether there*
18 *is a lengthy flight delay or whether a flight has been*
19 *canceled;*

20 (3) *establish realistic performance goals for re-*
21 *ducing the number of mishandled bags;*

22 (4) *develop and implement a system for tracking*
23 *and documenting the amount of time between the re-*
24 *ceipt of a passenger’s claim for missing baggage and*

1 *the delivery of the baggage to the passenger, including*
2 *the time taken by a courier or other delivery service*
3 *to deliver found baggage to the passenger;*

4 (5) *monitor and report its efforts to improve*
5 *services provided to passengers with disabilities and*
6 *special needs, including services provided at airports*
7 *such as check-in, passenger security screening (par-*
8 *ticularly for passengers who use wheelchairs), board-*
9 *ing, and disembarkation;*

10 (6) *clarify terminology used to advise passengers*
11 *of unscheduled delays or interruptions in service, such*
12 *as “extended period of time” and “emergency”, in*
13 *order to inform passengers better about what they can*
14 *expect during on-board delays;*

15 (7) *ensure that comprehensive passenger service*
16 *contingency plans are properly maintained and that*
17 *the plans, and any changes to those plans, are coordi-*
18 *nated with local airport authorities and the Federal*
19 *Aviation Administration;*

20 (8) *ensure that master airport flight information*
21 *display monitors contain accurate, up-to-date flight*
22 *information and that the information is consistent*
23 *with that shown on the carrier’s flight information*
24 *display monitors;*

1 (9) *establish a toll-free telephone number that a*
2 *passenger may use to check on the status of checked*
3 *baggage that was not delivered on arrival at the pas-*
4 *senger's destination;*

5 (10) *if it maintains a domestic code-share ar-*
6 *rangement with another air carrier, conclude an*
7 *agreement under which it will conduct an annual*
8 *audit of the code-share air carrier's compliance with*
9 *the Airline Customer Service Commitment; and*

10 (11) *if it has a frequent flyer program, make*
11 *available to the public a comprehensive report of fre-*
12 *quent flyer redemption information in its customer*
13 *literature and annual reports, including information*
14 *on the percentage of successful redemption of frequent*
15 *flyer awards and the number of seats available for*
16 *such awards in the air carrier's top 100 origin and*
17 *destination markets.*

18 (b) *INITIAL RESPONSE REPORTS.—*

19 (1) *AIR CARRIERS.—Within 90 days after the*
20 *date of enactment of this Act, each large air carrier*
21 *shall report to the Secretary of Transportation on its*
22 *implementation of the obligations imposed on it by*
23 *this Act.*

24 (2) *SECRETARY.—Within 270 days after the date*
25 *of enactment of this Act, the Secretary of Transpor-*

1 *tation shall report to the Congress on the implementa-*
2 *tion by large air carriers of the obligations imposed*
3 *on them by this Act, together with such additional*
4 *findings and recommendations for additional legisla-*
5 *tive or regulatory action as the Secretary deems ap-*
6 *propriate.*

7 **SEC. 6. IMPROVED DOT STATISTICS.**

8 *(a) MISSING BAGGAGE.—In calculating and reporting*
9 *the rate of mishandled baggage for air carriers, the Depart-*
10 *ment of Transportation shall not take into account pas-*
11 *sengers who do not check any baggage.*

12 *(b) CHRONICALLY DELAYED OR CANCELED*
13 *FLIGHTS.—The Office of Aviation Enforcement and Pro-*
14 *ceedings of the Department of Transportation, in coordina-*
15 *tion with the Bureau of Transportation Statistics of the De-*
16 *partment of Transportation, shall include a table in the Air*
17 *Travel Consumer Report that shows flights that are chron-*
18 *ically delayed or chronically canceled (as defined in section*
19 *41781(d)(2) and (3), respectively, of title 49, United States*
20 *Code).*

21 **SEC. 7. DOT REGULATIONS ON BUMPING.**

22 *(a) UNIFORM CHECK IN DEADLINE.—The Secretary of*
23 *Transportation shall initiate a rulemaking within 30 days*
24 *after the date of enactment of this Act to amend the Depart-*
25 *ment of Transportation's Regulations to consider estab-*

1 *lishing a uniform check-in deadline and to require air car-*
2 *riers to disclose, both in their contracts of carriage and on*
3 *ticket jackets, their policies on how those deadlines apply*
4 *to passengers making connections.*

5 (b) *BUMPED PASSENGER COMPENSATION.*—*The Sec-*
6 *retary of Transportation shall initiate a rulemaking within*
7 *30 days after the date of enactment of this Act to amend*
8 *the Department of Transportation’s Regulation (14 C.F.R.*
9 *250.5) governing the amount of denied boarding compensa-*
10 *tion for passengers denied boarding involuntarily to in-*
11 *crease the maximum amount thereof.*

12 (c) *CLARIFY CERTAIN TERMS.*—*The Secretary of*
13 *Transportation shall clarify the terms “any undue or un-*
14 *reasonable preference or advantage” and “unjust or unrea-*
15 *sonable prejudice or disadvantage”, as used in section 250.3*
16 *of the Department of Transportation’s Regulations (14*
17 *C.F.R. 250.3), for purposes of air carrier priority rules or*
18 *criteria for passengers denied boarding involuntarily.*

19 **SEC. 8. STUDY OF DAMAGE TO PASSENGERS WITH DISABIL-**
20 **ITIES’ EQUIPMENT.**

21 *The Secretary of Transportation shall conduct a study*
22 *of incidents of damage to equipment of passengers with dis-*
23 *abilities attributable to air carriers’ treatment of that*
24 *equipment.*

1 **SEC. 9. REVIEW OF REGULATIONS.**

2 *Within 1 year after the date of enactment of this Act,*
3 *the Secretary shall complete a thorough review of the De-*
4 *partment of Transportation's regulations that relate to air*
5 *carriers' treatment of customers, and make such modifica-*
6 *tions as may be necessary or appropriate to promote the*
7 *purposes of this Act or otherwise protect consumers.*

8 **SEC. 10. EMERGENCY MEDICAL ASSISTANCE.**

9 *(a) IN GENERAL.—Subchapter I of chapter 417 of title*
10 *49, United States Code, is amended by adding at the end*
11 *the following:*

12 **“§ 41722. Airline passenger emergency in-flight med-**
13 **ical care**

14 *“(a) IN GENERAL.—The Secretary of Transportation*
15 *shall prescribe regulations to establish minimum standards*
16 *for resuscitation, emergency medical, and first-aid equip-*
17 *ment and supplies to be carried on board an aircraft oper-*
18 *ated by an air carrier in air transportation that is capable*
19 *of carrying at least 30 passengers.*

20 *“(b) FACTORS CONSIDERED.—In prescribing regula-*
21 *tions under subsection (a), the Secretary shall consider—*

22 *“(1) the weight and size of the equipment de-*
23 *scribed in subsection (a);*

24 *“(2) the need for special training of air carrier*
25 *personnel to operate the equipment safely and effec-*
26 *tively;*

1 “(3) the space limitations of each type of aircraft
2 to which the standards apply;

3 “(4) the effect of the regulations on aircraft oper-
4 ations;

5 “(5) the practical experience of airlines in car-
6 rying and operating similar equipment, and whether
7 any air carriers are already training appropriate
8 personnel to an acceptable level of proficiency in the
9 operation of such equipment and the provision of
10 first-aid; and

11 “(6) such other factors as the Secretary finds rel-
12 evant.

13 “(c) CONSULTATION WITH SURGEON GENERAL.—Be-
14 fore prescribing regulations under subsection (a), the Sec-
15 retary shall consult with the Surgeon General of the United
16 States.”.

17 (b) CONFORMING AMENDMENT.—The chapter analysis
18 for chapter 417 of title 49, United States Code, is amended
19 by inserting after the item relating to section 41721 the fol-
20 lowing:

“41722. Airline passenger emergency in-flight medical care”.

